

Appeal filed manually before August 04, 2023 is valid under GST

The Hon'ble Punjab and Haryana High Court in the case of ***Optum Global Solutions Pvt. Ltd. v. State of Haryana [C.W.P. NO. 26273 of 2023 dated November 22, 2023]*** set aside the Impugned Order for dismissal of appeal on the ground that the appeal was filed manually. Also, Rule 108 of the Haryana Goods and Services Tax Rules, 2017 ("**the HGST Rules**") has been amended vide *Notification No. 38/2023 dated August 4, 2023*, wherein it is mandatory to file Appeal electronically with effect from the aforementioned date subject to the proviso stated therein.

Facts:

Optum Global Solutions Pvt. Ltd. ("**the Petitioner**") filed an appeal manually on August 31, 2020 against the order passed by the Revenue Department ("**the Respondent**"). However, the Respondent rejected the appeal filed by the Petitioner vide order dated November 22, 2023 ("**the Impugned Order**") on the ground that the Appeal was filed by the Petitioner manually.

Aggrieved by the impugned order, the Petitioner filed the writ petition contending that as per Rule 108 of the HGST Rules, the appeal can be filed either electronically or otherwise as may be notified by the Commissioner,

Issue:

Whether Appeal filed manually by the Petitioner is valid?

Held:

The Hon'ble Punjab and Haryana High Court in the case of ***C.W.P. NO. 26273 of 2023*** held as under:

- Relying upon the judgement of Hon'ble Punjab and Haryana High Court in the case of ***Go Daddy India Domains and Hosting Services Pvt Ltd v. State of Haryana [CWP-9051-2023 dated April 29, 2023]*** and judgement of Hon'ble Andhra Pradesh High Court in the case of ***Ali Cotton Mill v. Appellate Joint Commissioner [WP No. 3308 of 2021 dated February 11, 2021]*** held that filing of appeal manually is a highly technical ground for dismissing the appeal and therefore set aside the Impugned Order and directed the Revenue Department to hear the appeal on merits.
- Further Noted that, the Rule 108 of the HGST Rules has been amended vide *Notification No. 38/2023 dated August 4, 2023* wherein it is mandatory to file Appeal electronically with effect from the aforementioned date subject to the proviso stated therein.
- Held that, the Impugned Order is set aside.
- Directed that, the matter be remanded to Respondent Appellate Authority for fresh orders on merits.

Relevant Provision:

Rule 108 of the HGST Rules:

“Rule 108. Appeal to the Appellate Authority.-

*(1) An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in **FORM GST APL-01**, along with the relevant documents, electronically, and a provisional acknowledgement shall be issued to the appellant immediately.*

Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-01, along with the relevant documents, only if-

(i) the Commissioner has so notified, or

(ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately.”

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